

## **WAGE REQUIREMENTS LAW** **FY 19 ANNUAL REPORT**

The Wage Requirements Law (County Code Section 11B-33A) aims to ensure that employees of vendors awarded certain County service contracts receive livable wages<sup>1</sup>. The Wage Requirement Law (WRL), commonly known as the Living Wage Law, is an effort to address concerns about the ability of employees of vendors awarded contracts by Montgomery County to attain a wage commensurate with the cost of living in Montgomery County. The Law exempts a limited class of vendors from WRL coverage, including vendors with contracts under \$50,000, tax exempt organizations and bridge contracts.

### **FY 19 Retroactive Pay from County Contractors**

As a part of WRL enforcement, the Office of Procurement conducts audits when circumstances warrant. When an audit reveals an underpayment of the vendor's employees who work on County contracts subject to the WRL, the Office of Procurement requires the vendor to issue back pay to the affected employees. FY 19 saw the closure of one external audit. Further action on the only concluded external audit is pending the resolution of other issues. The Program Manager conducted several in-house investigations throughout FY 19. Those in-house investigations resulted in retroactive pay of \$41,773.85 by 11 vendors that was shared among 136 workers.

Another administrative requirement of the Wage Requirements Law is for contractors to submit quarterly payroll reports. Under County Law, these reports must contain the worker's wages, health insurance and other fringe benefits, as well as the race and gender of workers who perform work on the County contract. In FY 19 the County realized a submission rate of 85.3%.

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<sup>1</sup> The Wage Requirement Law is applicable to contracts executed on or after July 1, 2003.

**Minority, Female and Disabled (MFD) Contracts Subject to the Wage Requirements Law**

The WRL requires an annual report on the number of contracts and subcontracts with minority-owned businesses that are subject to the requirements of the Law along with data on year-to-year variance. In accordance with Section 11B-33A(i) of the Wage Requirements Law, the tables below contain the number of MFD contracts and subcontracts subject to the Wage Requirements Law.

**MFD Contracts and Subcontracts Subject to the Wage Requirements Law  
FY16 — FY19**

	FY19 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	983	355	36%	120	12%
Contracts with a vendor-claimed exception	423	126	30%	5	1%
Contracts operating under the Wage Requirements Law	560	229	41%	115	21%

	FY18 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	931	334	36%	115	12%
Contracts with a vendor-claimed exception	398	98	25%	3	1%
Contracts operating under the Wage Requirements Law	533	236	44%	112	21%

	FY17 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	1025	295	29%	134	13%
Contracts with a vendor-claimed exception	413	91	22%	5	1%
Contracts operating under the Wage Requirements Law	612	204	33%	129	21%

	FY16 Contracts				
	All	MFD			
		Prime		Sub	
Contracts subject to Wage Requirements Law	831	149	18%	61	7%
Contracts with a vendor-claimed exception	469	46	10%	3	1%
Contracts operating under the Wage Requirements Law	362	103	28%	58	16%

For the years reported, FY16 through FY19, MFD participation was relatively consistent. For those contracts ultimately subject to the Wage Requirements Law, those with no vendor-claimed exemption, for prime contractors, the participation range was from 28% to 44%. The average MFD prime contractor participation was 36.5%. For MFD sub-contractor, their participation ranged from 16% to 21%, and the average MFD sub-contractor participation was 18.75%.

### **Wage Equity Report**

As required under 11B-33A(g), the mandated evaluation of the wage data submitted by contractors and subcontractors is as follows:

- (A) Number of reports reviewed from FY 16 through FY 19 is 6,259 or an average of 1565 reports per year;

Fiscal Year	# of Reports Reviewed
FY 2016	1378
FY 2017	1455
FY 2018	1660
FY 2019	1766
<b>Total</b>	<b>6259</b>

- (B) No reports were referred to the Office of Human Rights for investigation;

- (C) There were no probable cause finding by the Office of Human Right resulting from these reports;
- (D) There were no sanctions imposed upon a contractor for a violation of subsection (g); and
- (E) There have been no complaints on pay equity from any workers on County contracts that are subject to the WRL; there is no other information to provide that the Director finds relevant to evaluate the effect of this reporting requirement on wage equity.

**Vendor-Claimed Exceptions to the Wage Requirements Law**

The Wage Requirements Law allows for exceptions based on the characteristics of the vendor’s business. The County began compiling this information in FY06.

	FY16	FY17	FY18	FY19
Contracts subject to Wage Requirements Law <sup>i</sup>	831	1025	931	983
Contracts with a vendor-claimed exception	469 (56%)	413 (40%)	398 (43%)	423 (43%)
Contracts operating under the Wage Requirements Law	362 (44%)	612 (60%)	533 (57%)	560 (57%)
Reason 1 – Under 10 employees	21	8	0	5
Reason 2 – Less than \$50K	328	226	215	219
Reason 3 – Public Entity	8	4	5	5
Reason 4 – Nonprofit Organization	129	169	175	190
Reason 5 – Terms of Federal/State Law, Contract or Grant	0	0	0	0
Reason 6 – CAO Waiver	3	3	2	3
Reason 7 – CBA Exemption	0	0	0	0
Reason 1,2	0	0	0	0
Reason 1,4	0	0	0	0
Reason 2,4	1	3	1	1
Reason 1,2,4	0	0	0	0
Total	469	413	398	423

<sup>1</sup> Section 11B-33A (b) of the County Code permits vendors to claim exceptions to the Wage Requirements Law. They are listed on the Wage Requirements Certification form as follows:

Reason 1 - Vendor employs fewer than 10 employees. (Repealed effective April 1, 2010.)

Reason 2 - Vendor has received less than \$50,000 in the last 12 months and will receive less than \$50,000 in the succeeding 12 months.

Reason 3 - Vendor is a public entity.

Reason 4 - Vendor is a nonprofit organization under section 501(c)(3) of the Internal Revenue Code.

Reason 5 - Vendor is expressly precluded from complying with the Wage Requirements Law by the terms of any federal or state law, contract or grant.

Reason 6 – CAO Waiver.